

Express Mail No.: EE341901444US
Date: November 22, 2000

PATENT APPLICATION
Docket No.: HUM00-03

11/22/00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Tim Keith, et al
Application No.: 09/548,797 Group: 1642
Filed: April 13, 2000 Examiner: TBA
For: **NOVEL HUMAN GENES RELATING TO RESPIRATORY
DISEASES AND OBESITY**

REPLY TO NOTICE TO FILE MISSING PARTS OF APPLICATION

Box Missing Parts
Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In reply to the Notice to File Missing Parts dated June 27, 2000, the following documents and fees are being submitted for filing in the captioned application:

[X] **EXECUTED DECLARATION/POWER OF ATTORNEY** - A copy of the Notice is attached.

(Separate transmittal letter and postcard not required)

[X] **FILING FEE** - with Fee Transmittal for Patent Applications in duplicate.

(Separate postcard not required)

[X] **SURCHARGE** - surcharge fee of \$130 for filing a late declaration. The appropriate fee of \$130 is hereby authorized to be charged to account 50-1040.

(Separate transmittal letter and postcard not required)

[] **SEQUENCE LISTING** - Filed concurrently and is attached.

(Separate transmittal letter and postcard required)

☒ **PETITION FOR EXTENSION OF TIME**

☒ Applicant hereby petitions to extend the time to respond to the Notice to File Missing Parts dated June 27, 2000 for 3 month(s) from August 27, 2000 to November 27, 2000. The appropriate fee of \$890 is hereby authorized to be charged to account 50-1040.

☐ A ☐ month extension of time to respond to the Notice to File Missing Parts dated ☐ was filed on ☐ with payment of a \$☐ fee.

☐ Applicant hereby petitions for an additional ☐ month extension of time to respond to the Notice to File Missing Parts. The appropriate fee of \$☐ is included in the enclosed check.

(Separate Petition for Extension of Time and postcard not required)

☐ **REQUEST FOR CORRECTED FILING RECEIPT** - Filed concurrently and is attached.

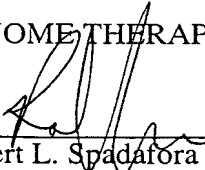
(Separate transmittal letter and postcard required)

☒ **PETITION UNDER 37 §1.47(a) AND STATEMENT OF FACTS** - with the authorization to charge account 50-1040 for the requisite fee of \$130.00.

Authorization is hereby granted to charge any additional fees due to Deposit Account No. 50-1040. A copy of this letter is enclosed for accounting purposes.

Respectfully submitted,

GENOME THERAPEUTICS CORPORATION.

By 
Robert L. Spadafora
Registration No.: 46,197
Tel.: (781) 398-2548
Fax: (781) 398-2607

Waltham, MA 02453

Date: 11/22/00

FORMALITIES LETTER



OC000000005205235

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark OfficeAddress: COMMISSIONER OF PATENT AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/548,797	04/13/2000	Tim Keith	HUM00-03

23856
GENOME THERAPEUTICS CORPORATION
100 BEAVER STREET
WALTHAM, MA 02453

Date Mailed: 06/27/2000

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given TWO MONTHS from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
Applicant must submit \$ 690 to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).
- Total additional claim fee(s) for this application is \$588.
 - \$198 for 11 total claims over 20.
 - \$390 for 5 independent claims over 3 .
- The oath or declaration is missing.
A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is \$ 1408.**

*A copy of this notice **MUST** be returned with the reply.*

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY

6/27/00 10:00 AM

Docket No.HUM00-03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Tim KEITH, Randall LITTLE, Paul VAN EERDEWEGH, Josée DUPUIS, Richard DEL MASTRO, Jason SIMON, Sunil PANDIT, and Kristina ALLEN

Serial No. : 09/548,797

Filed : April 13, 2000

For : **NOVEL HUMAN GENES RELATING TO RESPIRATORY DISEASE AND OBESITY**

Group Art Unit : 1632

Examiner : To be Assigned

PETITION UNDER 37 C.F.R. §1.47(a)

Commissioner for Patents
Washington, D.C. 20231

Sir:

It is respectfully requested that the combined declaration and power of attorney in above-identified patent application be accepted without the signature of Sunil Pandit, one of the eight joint inventors of the subject matter of the application, pursuant to 37 C.F.R. § 1.47(a). Inventor Sunil Pandit refuses to execute the combined declaration and power of attorney, following diligent effort to reach him and to request that he sign this document, as detailed in the accompanying Statement of Facts. Therefore, inventors Tim KEITH, Randall LITTLE, Paul VAN EERDEWEGH, Josée DUPUIS, Richard DEL MASTRO, Jason SIMON, and Kristina

ALLEN are signing the combined declaration and power of attorney on behalf of themselves and also on behalf of the non-signing inventor Sunil PANDIT in accordance with 37 C.F.R. § 1.47(a).

This Petition is also accompanied by:

- (1) a combined declaration and power of attorney executed by Tim Keith, Randall Little, Paul Van Eerdewegh, Josée Dupuis, Richard Del Mastro, Jason Simon and Kristina Allen on behalf of themselves and also on behalf of the non-signing inventor Sunil Pandit.
- (2) a Statement of Facts, signed by Robert L. Spadafora of Genome Therapeutics Corporation, which accompanies this Petition and provides facts in support of the need to sign the declaration for this application on behalf of an omitted inventor who refuses to sign the declaration, after diligent effort in accordance with 37 C.F.R. § 1.47(a);
- (3) an authorization to charge account 50-1040 of \$130.00 for the requisite fee accompanying the petition under 37 C.F.R. § 1.47(a);
- (4) a petition pursuant to 37 C.F.R. § 1.136(a) for a three month extension of time to effect timely filing of the petition under 37 C.F.R. § 1.47(a);
- (5) an authorization to charge account 50-1040 of \$890.00 (for the three month extension of time); and
- (6) an authorization to charge account 50-1040 for the surcharge for \$130.00 for filing a late declaration.

The most current address known for the nonsigning inventor is as follows and is also stated in the Statement of Facts: Sunil Pandit, 353 W Side Drive, Apt. 202, Gaithersburg, Maryland 20878 USA.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for this Petition under 37 C.F.R. §1.47(a), or to credit any overpayment, to Deposit Account No. 50-1040, Order No. HUM00-03.

In the event that an Extension of Time may be required in addition to that requested in the included petition for an extension of time, the Commissioner is requested to grant a petition for that Extension of Time which is required to make this response timely, and is hereby authorized to charge any fee for such an Extension of Time, or credit any overpayment for an Extension of Time, to Deposit Account No. 50-1040, Order No. HUM00-03. A DUPLICATE COPY OF THIS SHEET IS ATTACHED.

Respectfully submitted,

GENOME THERAPEUTICS CORPORATION

Dated: 11/22/00

By: _____

Robert L. Spadafora
Registration No. 46,197

Correspondence Address

Genome Therapeutics Corporation
100 Beaver Street
Waltham, MA 02421-4799
Telephone: (781) 398-2548
Facsimile: (781) 398-2607

Docket No.: HUM00-03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Tim KEITH et al.
Serial or Patent No. : 09/548,797 **Group Art Unit** : 1632
Filed or Issued : April 13, 2000 **Examiner** : TBA
For : **NOVEL HUMAN GENES RELATED TO RESPIRATORY
DISEASE AND OBESITY**

**STATEMENT OF FACTS IN SUPPORT OF FILING ON
BEHALF OF OMITTED INVENTOR WHO REFUSES TO
EXECUTE DECLARATION (37 C.F.R. § 1.47(a))**

I, Robert L. Spadafora, hereby declare as follows:

1. I am a Patent Agent employed in the Department of Business Development at Genome Therapeutics Corporation (GTC), 100 Beaver Street, Waltham, Massachusetts 02453-8443. I have held this position for two and one-half years. Prior to this I was a scientist in the Genomics Department of GTC for over two years. In my capacity as Patent Agent, I prepare and prosecute patent applications for GTC, and prepare and file accompanying documents to complete application filings. I hold a Bachelor of Science Degree in molecular and cell biology from the University of Connecticut.

2. I am making this declaration on behalf of GTC, 100 Beaver Street, Waltham, Massachusetts 02453-8443, at which the invention of the above-referenced patent application was made and to whom the above-identified patent application is to be assigned, as to the exact facts which are relied upon to establish the diligent effort made to secure the execution of the declaration (and an

assignment) by the non-signing joint inventor, Sunil Pandit, who has been contacted, but refuses to execute the same, in the above-identified patent application. The filing of an executed declaration in the subject application is in response to a Notice to File Missing Parts (Filing Date Granted) mailed from the United States Patent and Trademark Office ("USPTO") on June 16, 2000.

3. I have first-hand knowledge of the facts recited herein.

**DETAILS OF OMITTED INVENTOR WHO HAS REFUSED TO SIGN APPLICATION
PAPERS**

4. The inventors of above-identified patent application are Tim KEITH, Randall LITTLE, Paul VAN EERDEWEGH, Josée DUPUIS, Richard DEL MASTRO, Jason SIMON, Kristina ALLEN and Sunil PANDIT. The application was filed on April 13, 2000, without a declaration or assignment, and with first inventor Tim Keith listed on the Application Transmittal (**Exhibit 1**).

5. A Notice to File Missing Parts of a Nonprovisional Application -- Filing Date Granted -- was mailed from the U.S. Patent and Trademark Office for this application on June 27, 2000. To prepare for submitting a declaration executed by all of the joint inventors in response to the Notice to File Missing Parts, I determined the whereabouts of all of the inventors of the application, including those who are currently employed at GTC, and those who are no longer employed at GTC, and obtained their residence addresses and citizenships. All of the inventors were located and contacted by me to obtain their residence addresses and citizenships. Two of the inventors, Jason Simon and Sunil Pandit, are no longer employed at GTC, but I was able to locate them and send them the complete patent application, including specification, claims, drawings and abstract,

along with the declaration and assignment papers for execution. As detailed hereinbelow, I attempted in several ways to request that that inventor S. Pandit sign the declaration and assignment sent to him; however, he refuses to sign. Joint inventors Tim KEITH, Randall LITTLE, Paul VAN EERDEWEGH, Josée DUPUIS, Richard DEL MASTRO, Jason SIMON and Kristina ALLEN have each executed an assignment of their respective rights to the subject matter of the above-identified patent application to GTC. A true copy of the assignment for filing in this application is attached hereto as **Exhibits 2 and 3**.

6. Inventor S. Pandit is a former employee of GTC, who, along with joint inventors T. Keith, R. Little, P. Van Eerdewegh, J. Dupuis, R. Del Mastro, J. Simon and K. Allen, invented the subject matter of the above-identified patent application during the course of their employment by GTC. S. Pandit's term of employment at GTC was from September, 1996 to August, 1999.

7. Pursuant to 35 U.S.C. § 116 and 37 C.F.R. § 1.47(a), inventors T. Keith, R. Little, P. Van Eerdewegh, J. Dupuis, R. Del Mastro, J. Simon and K. Allen have executed the enclosed declaration on behalf of themselves and on behalf of non-signing joint inventor S. Pandit, who is uncooperative and will not sign the declaration and assignment sent to him. As is set forth below, GTC has acted diligently and in good faith in making a *bona fide* attempt to request that inventor S. Pandit execute the declaration and assignment for the subject patent application, and to obtain inventor S. Pandit's execution of the application papers for this patent application.

8. On November 6, 2000, I personally sent a transmittal letter and copies of the complete patent application papers (including the specification, claims, drawings and abstract), together with a declaration and an assignment to S. Pandit, at the following address: 353 W Side Drive, Apt. 202,

Gaithersburg, MD 20878-3028 by overnight mail. A copy of the overnight mail certificate from Airborne Express is attached hereto as **Exhibit 4**. In the transmittal letter accompanying the enclosed documents, I requested S. Pandit read the application prior to executing the declaration for patent application. In addition, I notified him in the letter that an assignment of the invention to GTC was included with the application materials and would need to be executed, and requested that S. Pandit sign and return the completed declaration and assignment documents to me. Also enclosed in that correspondence of November 6, 2000 was a self-addressed return envelope for overnight mail (A true copy of the letter that accompanied the application and related papers, the declaration and assignment is attached hereto as **Exhibit 5**. Also attached is a copy of the form for the self-addressed envelope from Federal Express as **Exhibit 6**).

9. Thereafter, on the evening of November 6, 2000, I personally telephoned S. Pandit at his residence address to inform him that I had sent the complete application, the declaration and assignment by overnight mail, and to confirm that he would read the application and sign the declaration and assignment papers as indicated upon receipt. During this conversation, S. Pandit indicated that he would read the application and related materials prior to signing the declaration and assignment, and that he would return the completed papers in the return envelope. He also stated that he would bring the assignment documents to his local bank to have them notarized.

10. On November 10, 2000, after not receiving the returned executed documents, I telephoned S. Pandit at his residence address that evening to inquire the status of the documents. At this time he informed me that due to his negative feelings toward his former employee, GTC, he would not sign the declaration and assignment documents, in spite of his previous indication that he would do

so. I reminded S. Pandit of his obligation to GTC, based upon his former contract of employment at GTC. The contract of employment specifies that as an inventor of subject matter of a patent application, GTC employees and former employees will cooperate and sign all papers as required for GTC to apply for a patent in the name of all true inventors (The executed employment agreement is attached hereto as **Exhibit 7**). Although I requested that S. Pandit sign the declaration and assignment papers several more times during our telephone conversation on November 10, 2000, he firmly refused to do so.

11. Subsequently, on November 13, 2000, my supervisor and GTC's Director of Intellectual Property made an independent attempt by telephone to encourage S. Pandit to execute the declaration and assignment papers; however, he maintained his refusal to sign.

STATEMENT OF CURRENT ADDRESS

12. Upon information and belief, Mr. Sunil Pandit's current residence address is 353 W Side Drive, Apt. 202, Gaithersburg, MD 20878-3028 USA.

13. Upon information and belief, Mr. Sunil Pandit's current telephone number is (301) 527-1324 for his residence address in Gaithersburg, MD.

14. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements

U.S. Patent Application No.:
09/548,797

Docket No.: HUM00-03

were made with the knowledge that willful false statements and the like so made are punishable by fine, or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: 11/22, 2000

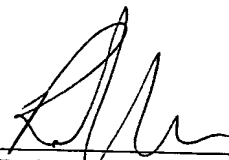
By: 
Robert L. Spadafora
Reg. No. 46,197

EXHIBIT 2

Docket No. HUM00-03

Joint

ASSIGNMENT

WHEREAS, we, Tim Keith, Randall Little, Paul VanEerdewegh, Josee Dupuis, Richard Del Mastro, Jason Simon, Sunil Pandit and Kristina Allen, have invented a certain improvement in NOVEL HUMAN GENES RELATING TO RESPIRATORY DISEASES AND OBESITY described in an application for Letters Patent of the United States, the specification of which:

☐ is being executed on even date herewith and is about to be filed in the United States Patent Office;

☒ was filed on April 13, 2000 as Application No. 09/548,797 ;

☐ was patented under U.S. Patent No. _____ on _____.

WHEREAS, Genome Therapeutics Corporation (hereinafter "ASSIGNEE"), a corporation organized and existing under the laws of the Commonwealth of Massachusetts, and having a usual place of business at 100 Beaver Street, Waltham, Massachusetts 02453 desires to acquire an interest therein in accordance with agreements duly entered into with us;

NOW, THEREFORE, to all whom it may concern be it known that for and in consideration of said agreements and of other good and valuable consideration, the receipt of which is hereby acknowledged, we have sold, assigned and transferred and by these presents do hereby sell, assign and transfer unto said ASSIGNEE, its successors, assigns and legal representatives, the entire right, title and interest in and throughout the United States of America, its territories and all foreign countries, in and to said invention as described in said application, together with the entire right, title and interest in and to said application and such Letters Patent as may issue thereon; said invention, application and Letters Patent to be held and enjoyed by said ASSIGNEE for its own use and behalf and for its successors, assigns and legal representatives, to the full end of the term for which said Letters Patent may be granted as fully and entirely as the same would have been held by us had this assignment and sale not been made; we hereby convey all rights arising under or pursuant to any and all international agreements, treaties or laws relating to the protection of industrial property by filing any such applications for Letters Patent. We hereby acknowledge that this assignment, being of the entire right, title and interest in and to said invention, carries with it the right in ASSIGNEE to apply for and obtain from competent authorities in all countries of the world any and all Letters Patent by attorneys and agents of ASSIGNEE's selection and the right to procure the grant of all such Letters Patent to ASSIGNEE for its own name as assignee of the entire right, title and interest therein;

AND, we hereby further agree for ourselves and our executors and administrators to execute upon request any other lawful documents and likewise to perform any other lawful acts which may be deemed necessary to secure fully the aforesaid invention to said ASSIGNEE, its successors, assigns and legal representatives, but at its or their expense and charges, including

the execution of applications for patents in foreign countries, and the execution of substitution, reissue, divisional or continuation applications and preliminary or other statements and the giving of testimony in any interference or other proceeding in which said invention or any application or patent directed thereto may be involved;

AND, we do hereby authorize and request the Commissioner of Patents of the United States to issue such Letters Patent as shall be granted upon said application or applications based thereon to said ASSIGNEE, its successors, assigns, and legal representatives.

IN TESTIMONY WHEREOF, we have hereunto set our hands and affixed our seals the date set forth below.

Inventor: _____
Tim Keith

State/Commonwealth
of _____
County of _____

Then personally appeared before me the above-named Randall Little and acknowledged that he/she executed the foregoing instrument as his/her free act and deed this _____
_____ day of _____, 20__.

(SEAL) _____ Notary Public
_____(print name)
My Commission expires __ / __ / __

Inventor: _____
Randall Little

State/Commonwealth
of _____
County of _____

Then personally appeared before me the above-named Randall Little and acknowledged that he/she executed the foregoing instrument as his/her free act and deed this _____ day of _____, 20__.

(SEAL) _____ Notary Public
_____(print name)
My Commission expires __ / __ / __

Inventor: _____
Paul VanEerdewegh

State/Commonwealth
of _____
County of _____

Then personally appeared before me the above-named Paul VanEerdewegh and acknowledged that he/she executed the foregoing instrument as his/her free act and deed this _____ day of _____, 20__.

(SEAL) _____ Notary Public
_____(print name)
My Commission expires __ / __ / __

Inventor: _____
Josee Dupuis

State/Commonwealth

of _____

County of _____

Then personally appeared before me the above-named Josee Dupuis and acknowledged that he/she executed the foregoing instrument as his/her free act and deed this _____ day of _____, 20__.

Notary Public

(SEAL)

_____ (print name)

My Commission expires ___ / ___ / ___

Inventor: _____
Richard Del Mastro

State/Commonwealth

of _____

County of _____

Then personally appeared before me the above-named Richard Del Mastro and acknowledged that he/she executed the foregoing instrument as his/her free act and deed this _____ day of _____, 20__.

Notary Public

(SEAL)

_____ (print name)

My Commission expires ___ / ___ / ___

Inventor: _____

Jason Simon

State/Commonwealth

of New Jersey

County of Union

Then personally appeared before me the above-named Jason Simon and acknowledged that he/she executed the foregoing instrument as his/her free act and deed this _____
26 day of October, 2006.

Notary Public

(SEAL)

Patricia Citarella (print name)

My Commission expires 01 / 11 / 2007

Inventor: _____

Sunil Pandit

State/Commonwealth

of _____

County of _____

Then personally appeared before me the above-named Sunil Pandit and acknowledged that he/she executed the foregoing instrument as his/her free act and deed this _____
_____ day of _____, 20__.

Notary Public

(SEAL)

_____ (print name)

My Commission expires ____ / ____ / ____

Inventor: _____

Kristina Allen

State/Commonwealth

of _____

County of _____

Then personally appeared before me the above-named Kristina Allen and acknowledged that he/she executed the foregoing instrument as his/her free act and deed this _____ day of _____, 20__.

Notary Public

(SEAL)

_____ (print name)

My Commission expires ___ / ___ / ___

EXHIBIT 3

Docket No. HUM00-03

Joint

ASSIGNMENT

WHEREAS, we, Tim Keith, Randall Little, Paul VanEerdewegh, Josee Dupuis, Richard Del Mastro, Jason Simon, Sunil Pandit and Kristina Allen, have invented a certain improvement in NOVEL HUMAN GENES RELATING TO RESPIRATORY DISEASES AND OBESITY described in an application for Letters Patent of the United States, the specification of which:

☐ is being executed on even date herewith and is about to be filed in the United States Patent Office;

☒ was filed on April 13, 2000 as Application No. 09/548,797 ;

☐ was patented under U.S. Patent No. _____ on _____.

WHEREAS, Genome Therapeutics Corporation (hereinafter "ASSIGNEE"), a corporation organized and existing under the laws of the Commonwealth of Massachusetts, and having a usual place of business at 100 Beaver Street, Waltham, Massachusetts 02453 desires to acquire an interest therein in accordance with agreements duly entered into with us;

NOW, THEREFORE, to all whom it may concern be it known that for and in consideration of said agreements and of other good and valuable consideration, the receipt of which is hereby acknowledged, we have sold, assigned and transferred and by these presents do hereby sell, assign and transfer unto said ASSIGNEE, its successors, assigns and legal representatives, the entire right, title and interest in and throughout the United States of America, its territories and all foreign countries, in and to said invention as described in said application, together with the entire right, title and interest in and to said application and such Letters Patent as may issue thereon; said invention, application and Letters Patent to be held and enjoyed by said ASSIGNEE for its own use and behalf and for its successors, assigns and legal representatives, to the full end of the term for which said Letters Patent may be granted as fully and entirely as the same would have been held by us had this assignment and sale not been made; we hereby convey all rights arising under or pursuant to any and all international agreements, treaties or laws relating to the protection of industrial property by filing any such applications for Letters Patent. We hereby acknowledge that this assignment, being of the entire right, title and interest in and to said invention, carries with it the right in ASSIGNEE to apply for and obtain from competent authorities in all countries of the world any and all Letters Patent by attorneys and agents of ASSIGNEE's selection and the right to procure the grant of all such Letters Patent to ASSIGNEE for its own name as assignee of the entire right, title and interest therein;

AND, we hereby further agree for ourselves and our executors and administrators to execute upon request any other lawful documents and likewise to perform any other lawful acts which may be deemed necessary to secure fully the aforesaid invention to said ASSIGNEE, its successors, assigns and legal representatives, but at its or their expense and charges, including

the execution of applications for patents in foreign countries, and the execution of substitution, reissue, divisional or continuation applications and preliminary or other statements and the giving of testimony in any interference or other proceeding in which said invention or any application or patent directed thereto may be involved;

AND, we do hereby authorize and request the Commissioner of Patents of the United States to issue such Letters Patent as shall be granted upon said application or applications based thereon to said ASSIGNEE, its successors, assigns, and legal representatives.

IN TESTIMONY WHEREOF, we have hereunto set our hands and affixed our seals the date set forth below.

Inventor: Tim Keith
Tim Keith

State/Commonwealth
of Massachusetts
County of Middlesex

Then personally appeared before me the above-named Randall Little and acknowledged that he/she executed the foregoing instrument as his/her free act and deed this _____
8th day of November, 2000.

(SEAL)

Notary Public
Paul M. Sasso (print name)
My Commission expires 06/12/03

Inventor: Randall Little
Randall Little

State/Commonwealth
of Massachusetts
County of Middlesex

Then personally appeared before me the above-named Randall Little and acknowledged that he/she executed the foregoing instrument as his/her free act and deed this 8th day of November, 2001.

(SEAL) Carol M Sasso Notary Public
(print name)
My Commission expires 6/12/03

Inventor: Paul VanEerdewegh
Paul VanEerdewegh

State/Commonwealth
of Massachusetts
County of Middlesex

Then personally appeared before me the above-named Paul VanEerdewegh and acknowledged that he/she executed the foregoing instrument as his/her free act and deed this 8th day of November, 2001.

(SEAL) Carol M Sasso Notary Public
(print name)
My Commission expires 6/12/03

Inventor:

Josee Dupuis
Josee Dupuis

~~State~~/Commonwealth

of Massachusetts

County of Middlesex

Then personally appeared before me the above-named Josee Dupuis and acknowledged that he/she executed the foregoing instrument as his/her free act and deed this 8th day of November, 2000.

Notary Public

(SEAL)

Carol M Sasso (print name)

My Commission expires 6/12/03

Inventor:

Richard Del Mastro
Richard Del Mastro

~~State~~/Commonwealth

of Massachusetts

County of Middlesex

Then personally appeared before me the above-named Richard Del Mastro and acknowledged that he/she executed the foregoing instrument as his/her free act and deed this 8th day of November, 2000

Notary Public

(SEAL)

Carol M Sasso (print name)

My Commission expires / /

Inventor: _____

Jason Simon

State/Commonwealth

of _____

County of _____

Then personally appeared before me the above-named Jason Simon and acknowledged that he/she executed the foregoing instrument as his/her free act and deed this _____ day of _____, 20__.

Notary Public

(SEAL)

_____ (print name)

My Commission expires ___ / ___ / ___

Inventor: _____

Sunil Pandit

State/Commonwealth

of _____

County of _____

Then personally appeared before me the above-named Sunil Pandit and acknowledged that he/she executed the foregoing instrument as his/her free act and deed this _____ day of _____, 20__.

Notary Public

(SEAL)

_____ (print name)

My Commission expires ___ / ___ / ___

Inventor: Kristina Allen
Kristina Allen

~~State~~/Commonwealth
of Massachusetts
County of Middlesex

Then personally appeared before me the above-named Kristina Allen and acknowledged that he/she executed the foregoing instrument as his/her free act and deed this 8th day of November, 2000.

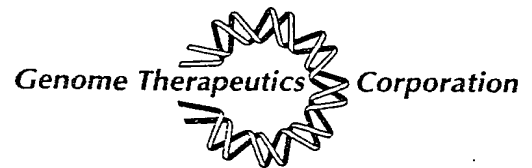
Notary Public

(SEAL)

Carol M. Sasso (print name)
My Commission expires 06/12/03

[illegible]

EXHIBIT 5




100 Beaver Street, Waltham, MA 02453-8443
781/398-2300

Memorandum

Date: November 6, 2000

To: Sunil Pandit, Ph. D

From: Robert L. Spadafora 

Subject: HUM00-03 "Novel Human Genes Relating to Respiratory Diseases and Obesity," by Tim Keith, et al., Filed April 13, 2000

RETURN REQUESTED BY NOVEMBER 8, 2000

We have attempted to contact you at various addresses unsuccessfully. Unfortunately, we have a deadline to file the attached documents by **November 10, 2000**. Could you please review, sign, and return to us in the Federal Express envelope enclosed. Thank you for your cooperation.

Enclosed please find a copy of the above-referenced patent application as filed in the U. S. Patent and Trademark Office on April 13, 2000. ***Please treat this application as highly confidential GTC information.***

A Declaration/Power of Attorney form is enclosed for review and signature. Please note that the Declaration requires that each inventor carefully read the patent application. If the application is acceptable, including the inventorship, please sign and date the Declaration in BLUE ink. Each inventor should also verify that his or her typed name, address and citizenship are correct. If there is an error on the form, it may be corrected in blue ink. Any such changes should be initialed and dated in the margin by the inventor. Please place your correct "citizenship" on the declaration. If you have any concerns or questions regarding the application or inventorship, please call me immediately.

Also enclosed is an Assignment form in which each inventor assigns rights to the invention described therein to Genome Therapeutics Corporation. The Assignment should be signed by each inventor in BLUE ink in the presence of a Notary Public.

Please return these documents to us at your earliest convenience for filing in the U.S. Patent and Trademark Office.

dealers.com

RETAIN THIS COPY FOR YOUR RECORDS

EXHIBIT 7

AGREEMENT

The undersigned SUNIL D. PANDIT, hereafter called "EMPLOYEE", desires to be employed, or continue to be employed by Genome Therapeutics Corporation, hereinafter called "THE COMPANY", in a capacity in which the EMPLOYEE may have access to certain confidential information of THE COMPANY and its affiliates and/or subsidiaries. In consideration of such employment and a promise by the EMPLOYEE to faithfully apply his/her skills in the service of THE COMPANY and a promise by THE COMPANY to pay wages for such service, the EMPLOYEE and THE COMPANY agree and understand as follows:

(1) The EMPLOYEE agrees that any work or research, or the results thereof, made or developed by the EMPLOYEE, alone or in connection with others, heretofore or hereafter during the term of his/her employment, including without limitation, any inventions, processes, software or formulae made or conceived during the period of his/her employment, whether during or out of the usual hours of work, which arise out of or which are related to the business, research and development work or field of operation of THE COMPANY or of any RELATED COMPANY (as hereinafter defined) shall be the sole and exclusive property of THE COMPANY.

(2) The EMPLOYEE agrees to disclose promptly to THE COMPANY, completely and in writing, all inventions, processes, software and formulae made or conceived by the EMPLOYEE, alone or in connection with others, heretofore or hereafter during the term of his/her employment, whether during or out of his/her usual hours of work, which might reasonably be construed as arising out of or relating to the business, research and development work or field of operations of THE COMPANY or of any RELATED COMPANY, and not to disclose the same to any other person unless so directed in writing by THE COMPANY or unless THE COMPANY grants a written waiver with respect thereto under paragraph 3 hereof.

(3) THE COMPANY shall at the request of the EMPLOYEE execute a written waiver of any rights to inventions, processes, software or formulae made or developed by the EMPLOYEE which are not the property of THE COMPANY under the provisions of paragraph 1 hereof. The EMPLOYEE agrees that the only rights that he/she shall have against THE COMPANY or any RELATED COMPANY with respect to such inventions, processes, software or formulae disclosed to THE COMPANY in connection with a request for such waiver or otherwise shall be such as may be afforded for patent infringement under the patent laws of the United States.

(4) The EMPLOYEE agrees to make application, through THE COMPANY'S patent attorney, and at the expense of THE COMPANY, for such United States and foreign patents as may be specified from time to time by THE COMPANY on inventions, processes, software or formulae which are the property of THE COMPANY hereunder, and to execute assignments upon THE COMPANY'S request of entire interest in all such applications to THE COMPANY or to its nominee without compensation to the EMPLOYEE (in addition to his/her usual compensation as an employee of THE COMPANY) and agrees to give to THE COMPANY and its patent attorney all reasonable assistance in preparing such applications and in preparing descriptions and illustrations of each such invention, process, software or formulae and in connection with the proceedings relating thereto or to such applications or to patents resulting therefrom; and further agrees to execute all lawful papers considered necessary by THE COMPANY and to do all that THE COMPANY reasonably requests in order to protect THE COMPANY'S rights in said inventions, processes, software and formulae or to obtain patents thereon. It is agreed that the EMPLOYEE'S obligation to do the work specified in this paragraph does not expire with the termination of his/her employment; but THE COMPANY agrees to pay the EMPLOYEE at a reasonable rate for any time that the EMPLOYEE actually spends in such work at THE COMPANY'S written request after termination of his/her employment hereunder, and agrees to reimburse the EMPLOYEE for expenses necessarily incurred by the latter in connection with such work. It is agreed that a reasonable hourly rate for such work is the total weekly salary that the EMPLOYEE was actually receiving from THE COMPANY at the time employment with THE COMPANY was terminated divided by forty (40).

(5) There is attached hereto a list of patents and patent applications on inventions made by the EMPLOYEE prior to his/her employment by THE COMPANY, and a description of all conceived inventions made by the EMPLOYEE prior to such employment covered by such applications or with respect to which no patent applications have yet been filed, in the fullest detail consistent with any obligations of the EMPLOYEE to others, covering all inventions heretofore made by the EMPLOYEE which the EMPLOYEE considers not to be the property of THE COMPANY under this agreement. The EMPLOYEE warrants that he/she has the right to disclose such information to THE COMPANY, and agrees that the only rights that he/she shall have against THE COMPANY or any RELATED COMPANY with respect to such patents, patent applications and inventions shall be such as may be afforded for patent infringement under the patent laws of the United States.

(6) All papers and records of every kind relating to any invention, process, formulae, software or patent which is the property of THE COMPANY under this agreement, which shall at any time come into the possession of the EMPLOYEE shall be the sole and exclusive property of THE COMPANY and shall be surrendered to THE COMPANY upon termination of the EMPLOYEE'S employment by THE COMPANY of upon request at any time either during or after the termination of such employment.

(7) The EMPLOYEE covenants and agrees with THE COMPANY that he/she will not, either during the term of his/her employment, or at any time thereafter, disclose to anyone, or use for his/her own benefit, except as required in the conduct of THE COMPANY'S business or as authorized in writing on behalf of THE COMPANY, any confidential or proprietary information, or other information which has not been made public by THE COMPANY, concerning any invention, process, software, formulae, trade secret or other matter relating to the business of THE COMPANY or any RELATED COMPANY which he/she may in any way acquire by reason of his/her employment by THE COMPANY, nor will he/she authorize others to do so. However, THE COMPANY understands that the EMPLOYEE is free to use his/her general technical skills upon terminating his/her employment with THE COMPANY when otherwise not inconsistent with the terms of this agreement.

(8) The EMPLOYEE agrees that he/she will not during the term of his/her employment, without the prior written permission of THE COMPANY, render (as employee, consultant or otherwise) any services in any way related to the field of operations of THE COMPANY or any RELATED COMPANY to anyone other than THE COMPANY and its RELATED COMPANIES. The EMPLOYEE also agrees that he/she will not during the term of his/her employment, or within eighteen (18) months thereafter, directly or indirectly in whole or in part establish or aid others in competition with THE COMPANY in establishing a new business which is to be engaged in whole or in part in the same or similar work as the EMPLOYEE was engaged in for THE COMPANY during the terms of the EMPLOYEE'S employment.

(9) The EMPLOYEE represents and warrants to THE COMPANY that he/she is not now under any obligation of a contractual or quasi contractual nature to any person, firm or corporation which is inconsistent or in conflict with this agreement or which would prevent, limit or impair in any way the performance by him/her of his/her obligations hereunder.

(10) No waiver expressed or implied of any breach of any covenant, agreement or duty shall be ever held to be or construed as a waiver, of any other breach of the same or any other covenant, agreement or duty.

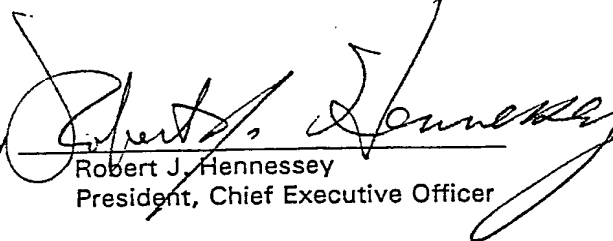
(11) The term "RELATED COMPANY" as used in this agreement means any corporation which is a successor in business to THE COMPANY, or a subsidiary or parent corporation of THE COMPANY by majority stock ownership, or under common control with THE COMPANY. Should the EMPLOYEE be employed by a RELATED COMPANY (through transfer or otherwise), this agreement shall continue to be a part of his/her employment agreement with such new employer, and the phrase "THE COMPANY" as used herein shall apply to such new employer.

(12) If any term or provision of this agreement, or the application thereof to any circumstances, shall to any extent be invalid or unenforceable, the remainder of this agreement, or the application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this agreement shall be valid and enforced to the fullest extent permitted by law.

(13) This contract shall be construed under the laws of the Commonwealth of Massachusetts.

Signed and sealed this 24th day of September, 19 96.

GENOME THERAPEUTICS CORPORATION

By 
Robert J. Hennessey
President, Chief Executive Officer

Sunil D. Pandit
Employee Signature

FORMALITIES LETTER



OC000000005205235

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark OfficeAddress: COMMISSIONER OF PATENT AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/548,797	04/13/2000	Tim Keith	HUM00-03

23856
GENOME THERAPEUTICS CORPORATION
100 BEAVER STREET
WALTHAM, MA 02453

Date Mailed: 06/27/2000

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given TWO MONTHS from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
Applicant must submit \$ 690 to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).
- Total additional claim fee(s) for this application is \$588.
 - \$198 for 11 total claims over 20.
 - \$390 for 5 independent claims over 3 .
- The oath or declaration is missing.
A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- The balance due by applicant is \$ 1408.

*A copy of this notice **MUST** be returned with the reply.*

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY

FORMALITIES LETTER



OC00000005205235

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark OfficeAddress: COMMISSIONER OF PATENT AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/548,797	04/13/2000	Tim Keith	HUM00-03

23856
GENOME THERAPEUTICS CORPORATION
100 BEAVER STREET
WALTHAM, MA 02453

Date Mailed: 06/27/2000

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given TWO MONTHS from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

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Applicant must submit \$ 690 to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).
- Total additional claim fee(s) for this application is \$588.
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- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is \$ 1408.**

*A copy of this notice **MUST** be returned with the reply.*

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

FILING RECEIPT

OC00000005205234

**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**Address: ASSISTANT SECRETARY AND
COMMISSIONER OF PATENT AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
09/548,797	04/13/2000	1632	0	HUM00-03	59	31	8

23856
 GENOME THERAPEUTICS CORPORATION
 100 BEAVER STREET
 WALTHAM, MA 02453

Date Mailed: 06/27/2000

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the PTO processes the reply to the Notice, the PTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

Tim Keith, Residence, XPX ;

Continuing Data as Claimed by Applicant

THIS APPLN CLAIMS BENEFIT OF 60/129,391 04/13/1999

Foreign Applications

If Required, Foreign Filing License Granted 06/27/2000

Title

Novel human Gene relating to respiratory diseases and obesity

Preliminary Class

435

Data entry by : GARNETT, SANDRA

Team : OIPE

Date: 06/27/2000



**LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15**

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 36 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

PLEASE NOTE the following information about the Filing Receipt:

- The articles such as "a," "an" and "the" are not included as the first words in the title of an application. They are considered to be unnecessary to the understanding of the title.
- The words "new," "improved," "improvements in" or "relating to" are not included as first words in the title of an application because a patent application, by nature, is a new idea or improvement.
- The title may be truncated if it consists of more than 600 characters (letters and spaces combined).
- The docket number allows a maximum of 25 characters.
- If your application was submitted under 37 CFR 1.10, your filing date should be the "date in" found on the Express Mail label. If there is a discrepancy, you should submit a request for a corrected Filing Receipt along with a copy of the Express Mail label showing the "date in."

Any corrections that may need to be done to your Filing Receipt should be directed to:

Assistant Commissioner for Patents
Office of Initial Patent Examination
Customer Service Center
Washington, DC 20231